

Honolulu, Hawaii

FEB 13 2014

RE: S.B. No. 2959
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2959 entitled:

"A BILL FOR AN ACT RELATING TO NEPOTISM,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit
nepotism in state government by:

- (1) Prohibiting a public official or public employee from appointing, employing, promoting, or advancing a relative within an agency over which the public official or public employee exercises control or the relative of another public official or employee employed by or exercising control over the same agency except under circumstances where the relative is highly qualified;
- (2) Prohibiting legislators from appointing, employing, or voting to confirm a relative;
- (3) Establishing that if a public official recommends a relative or refers a relative for consideration by a public official or public employee standing lower in the chain of command, then it is presumed that the public official or public employee advocated for the appointment, employment, promotion, or advancement of the relative;



- (4) Creating definitions of "agency", "chain of command", "public employee", "public official", and "relative"; and
- (5) Making the prohibition on nepotism applicable to justices and judges.

Your Committee received testimony in support of this measure from the Hawaii State Ethics Commission, Common Cause Hawaii, and one individual. Testimony in opposition to this measure was submitted by the Department of Human Resources Development.

Your Committee finds that this measure addresses the lack of laws prohibiting nepotism in state government hiring practices. Nepotism causes the appearance of favoritism and preferential treatment that erodes public confidence in government.

Your Committee recognizes the concerns raised by the Department of Human Resources Development that the language in this measure fails to adequately recognize the broad and extended relationships within Hawaii's unique community, which extend beyond blood relationships or relationships by marriage. The Department also testified to your Committee that implementing this measure may conflict with existing hiring procedures and employment laws and deter the recruitment of qualified employees. However, your Committee asserts that the intended focus of this measure is to prohibit a public official or public employee who is authorized to hire from appointing, employing, promoting, or advancing a relative or recommending to another person to hire the public official's or public employee's relative. This measure is not intended to discourage relatives of public officials or public employees from applying for jobs in the same agency in which the public official or public employee is employed.

Additionally, the Hawaii State Ethics Commission raised concerns that the language in this measure is too broad and may pose enforcement problems for the Commission. The Commission suggested language from S.B. No. 434 (2013), which prohibits a legislator or public employee from naming, appointing, or hiring a relative to public office or employment. The Commission explained that this language is narrower than the language in this measure and is clearer, is easier to enforce, and addresses what the Commission understands to be the most common instances of nepotism that may be occurring in state employment. The Commission further suggested language that provides an exception for the temporary



employment of a relative in the event of an emergency, such as a natural disaster.

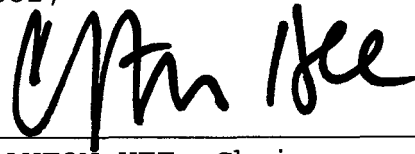
Accordingly, your Committee has amended this measure by adopting the language suggested by the Hawaii State Ethics Commission to delete the contents of this measure and:

- (1) Insert language from S.B. No. 434 (2013), that prohibits a legislator or public employee from naming, appointing, or hiring a relative to public office or employment and amends this language further to:
 - (A) Clarify that a legislator or employee is prohibited from advocating for, employing, promoting, supervising, or advancing any relative to public office or employment; and
 - (B) Add reciprocal beneficiaries to the list of relationships that qualify as a legislator's or employee's relative;
- (2) Insert language that allows the Director of Human Resources Development, Administrative Director of the Courts, and Senate President and Speaker of the House of Representatives to prescribe rules for each respective branch or house for the temporary employment of relatives in the event of any emergency as a result of a natural disaster or similar unforeseen event or circumstance; and
- (3) Insert an effective date of July 1, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2959, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2959, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 2959</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">JDL</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/6/14</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
GALUTERIA, Brickwood	✓			
IHARA, Jr., Les	✓			
SOLOMON, Malama				✓
SLOM, Sam	✓			
TOTAL	6			1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature:				
Distribution: <div style="display: flex; justify-content: space-between; font-size: 0.8em; margin-top: 5px;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes